

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

TIMOTHY HARRINGTON,

Plaintiff,

v.

Civil Action No.: 2:17-10664

EQUIFAX INFORMATION SERVICES,
LLC and CAPITAL ONE BANK (USA),
N.A.,

Defendants.

MICHIGAN CONSUMER CREDIT
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NOTICE OF REMOVAL

Defendant Capital One Bank (USA), N.A., incorrectly sued as “Capital One Bank, USA, NA,” (“Capital One”), by counsel, and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby removes the above-entitled action, which is currently pending in the District Court for the 52-2 Judicial District, Oakland County, Michigan (Case No. 17-C00302GC), and states as follows:

Background

1. On January 25, 2017, Plaintiff Timothy Harrington (“Plaintiff”) filed a Small Claims Complaint (“Complaint”) against Capital One and Equifax Information Services, LLC (“Equifax”)(collectively, “Defendants”) in the District Court for the 52-2 Judicial District, Oakland County, Michigan, alleging that they violated the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §§ 1681, *et seq.* (A copy of Plaintiff’s Complaint is attached as Exhibit A.)

2. Capital One was purportedly served with a copy of the Summons and Complaint on or about February 10, 2017.

3. The Summons and Complaint constitute “all process, pleadings, and orders served upon” Capital One in this action to date. 28 U.S.C. § 1446(a).

Timeliness of Removal

4. Capital One received notice of this action through service of the Complaint on or about February 10, 2017. Therefore, this notice of removal is

timely under 28 U.S.C. § 1446(b), because less than 30 days have passed since Capital One was served with Plaintiff's Complaint.

Removal Jurisdiction

5. This action is properly removable under 28 U.S.C. § 1441 because this Court has original jurisdiction of this case under 28 U.S.C. § 1331, which provides in pertinent part: "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331.

6. Specifically, Plaintiff alleges that Capital One violated the FCRA by allegedly reporting inaccurate credit information to Equifax regarding a disputed account, and then failed to conduct an investigation of that dispute. Accordingly, this is a civil action "arising under the Constitution, laws, or treaties of the United States" pursuant to Section 1331, and removal is appropriate pursuant to Sections 1441 and 1446.

7. Equifax consents to the removal of this case to this Court. A copy of Equifax's Consent to Removal is attached as Exhibit B.

8. Removal to this Court is proper as the United States District Court for the Eastern District of Michigan embraces the District Court for the 52-2 Judicial District, Oakland County, Michigan.

Notice to State Court and Plaintiff

9. Pursuant to 28 U.S.C. § 1446(d), Capital One is promptly providing written notice of its removal to Plaintiff and will promptly file a copy of this Notice of Removal with the Clerk of the Court for the District Court for the 52-2 Judicial District.

WHEREFORE, Defendant Capital One Bank (USA), N.A. respectfully requests that the above-entitled action be removed from the District Court for the District Court for the 52-2 Judicial District to this Court.

Respectfully submitted,

CAPITAL ONE BANK (USA), N.A.

By: /s/ John C. Crees
One of its attorneys

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CERTIFICATE OF SERVICE

John C. Crees, an attorney, certifies that on March 2, 2017, he electronically filed the foregoing Notice of Removal with the Clerk of the Court by using the CM/ECF system, and sent a copy of the same by U.S. Mail, proper postage prepaid, to the individuals listed below:

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